

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

FEB 04 2004

JAMES W. MCCORMACK, CLERK
By *[Signature]*
DEP. CLERK

SHIPLEY, INC., ET AL.

PLAINTIFFS

V.

No. 4:03CV00481 GTE

FLETCHER LONG, JR., ET AL.

DEFENDANTS

ORDER GRANTING INTERIM PRELIMINARY INJUNCTIVE RELIEF

In contemplation of this Court's Memorandum Opinion and Certification Order, entered on this even date and notice of which was provided to the parties yesterday, Plaintiffs requested a preliminary injunction to prevent the Defendants from enforcing the "allow to view" provisions of Ark. Code Ann. § 5-68-502(2). Defendants previously entered into a stipulation agreeing not to enforce the provisions of the statute added by Act 858 of 2003 (primarily relating to the segregation provisions codified at § 5-68-502(1)) pending the resolution of the constitutional challenges brought by the Plaintiffs. Upon inquiry, the Court has learned from Defendants' counsel that, indeed, their prior stipulation not to enforce the statute does not extend to any other portions of the statute other than those portions added by Act 858 of 2003.

Among the four (4) issues of law contained in this Court's Certification Order is an issue which calls in to question the enforcement and meaning of the "allow to view" provision of § 5-68-502(2). For the sole purpose of maintaining the status quo pending a determination by the Arkansas Supreme Court of whether to take up and consider the four (4) questions of law certified by this Court pursuant to Rule 6-8 of the Rules of the Arkansas Supreme Court,

IT IS HEREBY CONSIDERED, ORDERED, AND ADJUDGED THAT the Defendants, in addition to refraining from enforcing the provisions added by Act 858 of 2003, shall also refrain from enforcing the "allow to view" provisions of § 5-68-502(2), pending further Orders of this Court.

IT IS FURTHER ORDERED THAT the Court has determined that no security is necessary for the entry of this Interim Preliminary Restraining Order, which is entered to permit the Arkansas Supreme Court to exercise its discretionary jurisdiction and this Court to consider the pending challenge to the constitutionality of the statute.

Dated this 4th day of February, 2004.

Sarnett Thomas Evers
UNITED STATES DISTRICT JUDGE

THIS DOCUMENT ENTERED ON
DOCKET SHEET IN COMPLIANCE
WITH RULE 58 AND/OR 79(a) FRCP
ON 2/4/04 BY mt